

FILED
WILLIAMSPORT

SEP 07 2022

PER

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In The United States District Court
For The Middle District of Pennsylvania

Michael Nelson, Motion Requesting an Adverse Inference for failure to
Plaintiff Preserved Requested Video Footage

v.

Mroczka, Civil Action No. 4:22-cv-1238

Defendant

On Sunday August 21, 2022 Psychologist Ms. Magnairmara (may not be spelled correctly) made her rounds on H-Block A-Pod at between 9:20am - 9:40am. Plaintiff Nelson wrote (C.S.A) Ms. J. Mahally the same day and requested that the video footage of be preserved as Evidence in Civil Action Nelson v. Mroczka, 4:22-cv-1238 before this Honorable Court.

In less then (72) hours (C.S.A) Ms. J. Mahally sent me a response to my written request for the 8/21/2022 (9:20am - 9:40am) video footage of H-Block A-Pod to be preserved, clearly stating "video is no longer available" (see Exhibit M) of this motion.

The request for this video footage was filed in a timely manner (same day) so this video footage should've been available. In this video footage Psychologist Ms. Magnairmara verbally admits that all threats of Suicide have to be taken seriously by Institutional/Correctional staffers because at the time the Threats of Suicide are made its a Serious Mental need. And no Psychologist should ever encourage and any inmate to committ Suicide because to do so is negligence because its a Serious Mental need.

By the written admission of a Prison Official (C.S.A. Ms. J. Mahally) the video footage was not preserved, because it was unable (see Exhibit M) of this motion. Because this video footage was not preserved/unable

as to no fault of the Plaintiff, an Adverse Inference should be ruled stating: "That Plaintiff Nelson's requesting that Psychologist Magnoirmara admission" that all of Suicide are to be taken as seriously and constitute a serious mental health need at the time. As well as for a Psychologist to encourage an inmate to commit suicide is negligence" ~~and~~ constitute's an expert witness statement because she herself is a Psychologist

Brief In Support of Motion

It is clear that Plaintiff Nelson requested that this video footage be preserved in a timely manner and the Institution for reasons that weren't/ had anything to do with Plaintiff Nelson were unable/ failed to preserved the requested video, and Plaintiff Nelson submitted a written admission to this claim.

Memorandum of law

1. Easley v. Tritt, et. al. 1:17-cv-930
2. William Victor v. Lawler, et. al. 3:18-cv-3174
3. Tejada v. Del Balso, 3:18-cv-01096

Respectfully Submitted

Exhibit ~~K~~

Form DC-135A		Commonwealth of Pennsylvania Department of Corrections	
INMATE'S REQUEST TO STAFF MEMBER		INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.	
1. To: (Name and Title of Officer) <u>Ms. J. Mahally</u>		2. Date: <u>8/21/22</u>	
3. By: (Print Inmate Name and Number) <u>Michael Nelson, HD4512</u> _____ Inmate Signature		4. Counselor's Name: <u>Mr. C.</u>	
6. Work Assignment: <u>None</u>		5. Unit Manager's Name: <u>Mr. Kellner</u>	
7. Housing Assignment: <u>H-A-116</u>		8. Subject: State your request completely but briefly. Give details. <u>I am requesting the cam video of H-Block A-Pod on Sunday August 21, 2021 from 9:20 AM - 9:40 AM be preserved as Evidence in Civil Action Nelson v. Mroczka, No. 4:22-cv-1238, before the United States District Court for the Middle District of Pennsylvania (Williamsport). I am also requesting the correct spelling of the name of the Psychologist in the video footage making her rounds.</u> <u>Thank You!</u>	
9. Response: (This Section for Staff Response Only)			
<u>Video is no longer available for 8-21-22.</u>			
To DC-14 CAR only <input type="checkbox"/>		To DC-14 CAR and DC-15 IRS <input type="checkbox"/>	

STAFF MEMBER NAME _____

Print

J Mahally
SignatureDATE 8-23-22

Certificate of Service

I, Michael Nelson # HB4512, a Pro Se Plaintiff within the Pennsylvania Department of Corrections Caused to be Served a true and Correct copy of the enclosed motion upon the Clerk of Courts 9 on 9/1/2022 via of First Class Postage

Order of the Court

It is the Order of this Court that an Adverse Inference is ordered because SCI Mahanoy by its own admission failed to preserved the requested video footage because it was unavailable. So the Court will accepted Psychologist Magnoirmara admission as true and Correct as stated in this motion, meet the standard for expert witness statement for negligence and Serious Mental need.

In The

US POSTAGE

quadrant

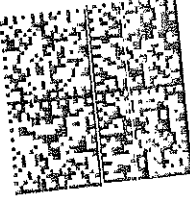
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INMATE MAIL

PA DEPT OF

CORRECTIONS

Clerk of Court

U.S. Courthouse

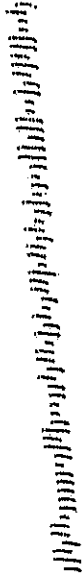
240 West Third Street, Suite 218

Williamsport, PA 17701-1640

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